

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SABRINA HART and REKA FUREDI
on behalf of themselves, all
similarly situated, and the Proposed
New York Rule 23 Class,

Plaintiff,

V.

RICK'S CABARET INTERNATIONAL INC.,
 RCI ENTERTAINMENT (NEW YORK) INC.,
 PEREGRINE ENTERPRISES, INC.,

Defendants.

Case No. 09-CV-3043 JGK/THK

**AFFIDAVIT OF
E. MICHELLE DRAKE**

[illegible]

E. Michelle Drake, being duly sworn, states as follows:

1. I am one of the attorneys for the Plaintiffs in the above-entitled matter. I have personal knowledge of the facts set forth in this Affidavit and if called as a witness for this purpose, I could and would testify competently under oath to them.

2. I submit this Affidavit in support of Plaintiff's Motion for Rule 23 Class Certification.

3. A true and correct copy of the following documents are attached hereto to
as exhibits:

EXHIBIT 1: Printout of <http://www.ricks.com/pressreleases/22/pr.aspx>:

EXHIBIT 2: Entertainer Charge Summaries;

EXHIBIT 3: Correspondence to Judge Lynch, dated January 26, 2009, in Imbeault v. Rick’s Cabaret Intern’l, et. al, No. 08-CV-5458 (S.D.N.Y.);

- EXHIBIT 4:** Correspondence from Jeffrey Kimmel to E. Michelle Drake, dated February 9, 2009;
- EXHIBIT 5:** Correspondence from E. Michelle Drake to Jeffrey Kimmel, dated February 18, 2009, with attachments;
- EXHIBIT 6:** Excerpts from Plaintiffs' Discovery Requests to Defendants, Set I;
- EXHIBIT 7:** Correspondence from Jeffrey Kimmel to Steven A. Smith, dated November 20, 2009;
- EXHIBIT 8:** Excerpts from Rick's Cabaret Int'l, Inc., Annual Report (Form 10-K), dated September 30, 2005 Amended;
- EXHIBIT 9:** Excerpts from Rick's Cabaret Int'l, Inc., Annual Report (Form 10-K), dated September 30, 2006;
- EXHIBIT 10:** Entertainer Guidelines Effective early 2009;
- EXHIBIT 11:** Entertainer Guidelines Effective late 2007;
- EXHIBIT 12:** Entertainer Guidelines Effective early 2007;
- EXHIBIT 13:** Entertainer Guidelines Effective 2006;
- EXHIBIT 14:** Entertainer Guidelines Effective early 2005;
- EXHIBIT 15:** Summary of Relevant Entertainer Guidelines Enforced During Class Period;
- EXHIBIT 16:** Dance Dollar Purchase Form;
- EXHIBIT 17:** Plaintiffs' redacted Form 1099's;
- EXHIBIT 18:** Dance Dollar Reports;
- EXHIBIT 19:** Plaintiffs' Preliminary Questions for Submission to Finder(s) of Fact & Law on Behalf of the Proposed Class;
- EXHIBIT 20:** Login Reports;
- EXHIBIT 21:** Order on Class Certification in Zajkowski, et al v. RCI Entertainment (Minnesota), Inc. d/b/a Rick's Cabaret, Court File No. 27-CV-07-26436 (Minn. Dist. Ct.);

- EXHIBIT 22:** White v. OSI Collection Services, Inc.,
No. 01-CV-1343(ARR), 2001 WL 1590518
(E.D.N.Y. Nov. 5, 2001);
- EXHIBIT 23:** Harris v. Messerli & Kramer, P.A.,
No. 06-CV-4961 (PJS/JJG), 2008 WL 508923
(D. Minn. Jan. 2, 2008);
- EXHIBIT 24:** Chan v. Sung Yue Tung Corp.,
No. 03 Civ. 6048 (GEL) 2007 WL 313483
(S.D.N.Y. Feb. 1, 2007);
- EXHIBIT 25:** Delgado v. Ortho-McNeil, Inc.,
No. 07-263, 2007 WL 2877238 (C.D. Cal. Aug. 7, 2007);
- EXHIBIT 26:** Krebs v. Canyon Club, Inc.,
No. 10431/08, 2009 WL 440903
(N.Y. Sup. Ct. Jan. 2, 2009)
- EXHIBIT 27:** Reich v. ABC/York-Estes Corp.,
91 Civ. 6265(BM), 1997 WL 264379
(N.D. Ill. May 12, 1997);
- EXHIBIT 28:** Toure v. Cent. Parking Sys.,
05 Civ. 5237, 2007 WL 2872455
(S.D.N.Y. Sept. 28, 2007);
- EXHIBIT 29:** Dziennik v. Sealift, Inc.,
05 Civ. 4659, 2007 WL 1580080
(E.D.N.Y. May 29, 2007);
- EXHIBIT 30:** Alba v. Papa John's USA, Inc.,
No. CV 05-7487, 2007 WL 953849
(C.D. Cal. Feb. 7, 2007);
- EXHIBIT 31:** Krzesniak v. Cendant Corp
C 05-05156, 2007 WL 1795703 (N.D. Cal. June 20, 2007);
- EXHIBIT 32:** Tierno v. Rite Aid Corp.
No. C 05-02520, 2006 WL 2535055
(N.D. Cal. Aug. 31, 2006);
- EXHIBIT 33:** Chun-Hoon v. McKee Foods Corp.
No. C-05-620 VRW, 2006 WL 3093764
(N.D. Cal., Oct. 31, 2006) ;

- EXHIBIT 34:** Torres v. Gristede's Operating Corp.,
No. 04 Civ. 3316(PAC), 2006 WL 2819730
(S.D.N.Y. Sept. 29, 2006);
- EXHIBIT 35:** Reed v. TJX Cos.,
2004 WL 2415055 (N.D. Ill. Oct. 27, 2004);
- EXHIBIT 36:** 3004 Albany Crescent Tenants' Ass'n v. City of New York,
No. 95 Civ. 10662 BSJ, 1999 WL 1067891
(S.D.N.Y. Nov. 24, 1999);
- EXHIBIT 37:** Lewis v. Nat'l Fin. Sys., Inc.,
No. 06-1308, 2007 WL 2455130
(E.D.N.Y. Aug. 23, 2007);
- EXHIBIT 38:** Reyes v. Carnival Corp.,
04-21861-CIV, 2005 WL 4891058
(S.D. Fla. May 25, 2005);
- EXHIBIT 39:** Deposition Transcript of Ken Sistrunk;
- EXHIBIT 40:** Deposition Transcript of Eric Langan.

4. Defendants have not produced any Entertainer Charge Summaries other than those attached here. Plaintiffs request for additional such documents is pending before Magistrate Judge Katz.

5. Plaintiffs Hart and Furedi have demonstrated a commitment to the class by assisting with the preparation of the complaint, executing a declaration, answering interrogatories, and indicating their willingness to sit for a deposition.

6. I am unaware of any individual who is interested in “controlling the prosecution . . . of separate actions” or of any other pending lawsuits brought against Defendants by putative class members.

7. I am an Associate Attorney at Nichols Kaster. I graduated from Harvard College in 1996, received a Master’s Degree from Oxford University in 1998 and a J.D. from Harvard Law School in 2001. After graduating from Harvard, I was a public

defender in Atlanta, Georgia. As a public defender, I tried several jury trials, including several murder cases. I subsequently became the youngest lawyer to join the Office of the Georgia Capital Defender where I exclusively defended death penalty cases in Georgia's trial courts. In 2007 I joined Nichols Kaster and since then my practice has focused almost exclusively on the representation of employees in individual and class litigation.

FURTHER YOUR AFFIANT SAYETH NOT.

s/E. Michelle Drake

E. Michelle Drake

Subscribed and sworn to before me
25th day of November 2009.

s/Heather J. O'Neil

Notary Public

My Commission Expires January 31, 2012